IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 1865 of 1999

Between:

Savitha Hatcheries Pvt. Ltd., rep.by its Managing Director,

Chillakur Prabhakar Reddy, S/o C.Raghava Reddy, R/o.17/1117, Ramji Nagar,

Nellore.

..... PETITIONER

AND

1. The A.P.TRANSCO, Rep. by its C&MD, Vidyut Soudha, Hyderabad.
2. The Chief Engineer, Electricity, AP.TRANSCO, Nellore Zone, Nellore.
3. The Superintending Engineer, Assessment Circle, Cuddapah.
4. The Assistant Divisional Engineer, Operation Rural, A.P.TRANSCO, Nellore.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction declaring the order of 2nd respondent in Appeal No.148/98 confirming the orders of the 3rd respondent as illegal, void and unenforceable.

Counsel for the Petitioner: MR.C.V.NAGARJUNA REDDY

Counsel for the Respondents: SMT.M.VINOBHA DEVI

The Court made the following:

ORDER:

Heard the learned counsel for the petitioner, Sri C.V.Nagarjuna Reddy, and the learned Standing Counsel for the respondent Corporation, Smt.M.Vinobha Devi.

The petitioner herein, who is running Hatcheries, filed this writ petition, *inter alia*, seeking to assail the impugned orders of assessment in regard to the allegation of theft of energy, which was found during an inspection conducted by the respondent authorities on 20.01.1998.

The case of the petitioner in brief is that on 28.12.1997, an inspection was conducted and found everything alright. However, once again second inspection was conducted on 20.01.1998 and, on the basis of which, the present allegations are being made as to the theft of energy. Subsequently, after giving opportunity to the petitioner, the provisional assessment was made at Rs.2,92,167/-. Thereafter, on objections filed by the petitioner, the final assessment was also made

at Rs.2,46,861/- as per orders dated 27.05.1998. On appeal, the same was confirmed. Hence, this writ petition.

The learned counsel for the petitioner submits that having regard to the fact that once the petitioner's meter was found to be intact and without therebeing any suspicious circumstances in the inspection conducted on 28.12.1997, it cannot be said that there can be any such interpolations with the meter as found on 20.01.1998. Further, even with regard to the report obtained from the MRT, no notice was given to the petitioner. Hence, the entire assessment is wholly unsustainable and opposed to the principles of natural justice.

The learned Standing Counsel for the respondent Corporation sought to repel the aforesaid contentions.

Considering the submissions made on either side and also on perusal of the material, the only question that falls for consideration is as to whether there is theft of energy as alleged and the petitioner is liable for the assessment as made by the respondent authorities?

There is no serious dispute to the fact that there were two inspections conducted on 28.12.1997 and on 20.01.1998. In the inspection conducted on 28.12.1997, no suspicious circumstances were found, however, in the inspection conducted on 20.01.1998, the present irregularities were found, whereupon the provisional assessment was made and after considering the objections raised by the petitioner, the final assessment was made at Rs.2,46,861/- with a finding that the petitioner is responsible for the theft of energy. Even on appeal, though several contentions have been urged, the same was confirmed with the said finding.

Therefore, confronted with the concurrent findings by the statutory authorities as to the theft of energy on the part of the petitioner, it is not open for this Court to go into the same or re-appreciate the same to come to a different conclusion. However, the fact remains that there were two inspections one was on 28.12.1997 and another one was on 20.01.1998. There is every doubt as to the

quantum of assessment arrived at and certainly it goes far beyond the normal consumption. It is submitted by the learned counsel for the petitioner that the petitioner has already deposited half of the assessment made during the pendency of the appeal.

In view of the same and especially taking into consideration the fact that the inspection was conducted as long back as in the year 1998, no purpose will be served at this juncture to order any fresh inspection or any report as such. Instead, it would be suffice in the interests of justice to reduce the final assessment by 25%.

In view of the same, the finding that there is theft of energy by the petitioner is confirmed and the quantum of assessment in the final assessment is reduced from Rs.2,46,861/- to Rs.1,85,145/-.

Accordingly, the writ petition is allowed in part. No costs.

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23.12.2004

VGB

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, The Twenty Second Day of December, Two Thousand and Four.

To

1. The Chairman &Managing Director, A.P.TRANSCO, Vidyut Soudha, Hyderabad.
2. The Chief Engineer, Electricity, AP.TRANSCO, Nellore Zone, Nellore.
3. The Superintending Engineer, Assessment Circle, Cuddapah.
4. The Assistant Divisional Engineer, Operation Rural, A.P.TRANSCO,

Nellore.

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